IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

SHARON ARNEADER MCALLISTER — PLAINTIFF

VS. — CIVIL ACTION NO. 3:17cv724 DPJ-FKB

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS — DEFENDANT

COMPLAINT

COMES NOW, plaintiff, Sharon Arneader McAllister, pro se, and for cause of action against the defendant(s) United States Department of Veterans Affairs, would state:

JURISDICTION

I.

Plaintiff is an adult resident citizen of the County of Hinds, State of Mississippi. The defendants United States Department of Veterans Affairs is an adult resident of the County of Hinds, State of Mississippi.

FACTS

Newly discovered medical research studies and medical evidence not reasonably discoverable at the time of presenting the original claim are presented here.

My husband Willie Alexander McAllister Sr. was only nineteen years old when he volunteered to join the United States Army. He served in the Army from October 14, 1966 to October 13, 1972 as an infantryman stationed in Vietnam where he spent one year living in the jungle. The military awards my husband received were: ARMY COMMENDATION MEDAL & LETTER V DEVICE, NATIONAL DEFENSE SERVICE MEDAL, VIETNAM SERVICE

MEDAL W/3 BRONZE STARS, COMBAT INFRANTRYMAN BADGE 1ST AWARD, REPUBLIC OF VIETNAM CAMPAIGN RIBBON /W DEVICE (1960), EXPERT BADGE & MACHINE GUN BAR & RIFLE BAR, MARKSMAN BADGE & AUTO RIFLE BAR. In October 1972, my husband received an honorable discharge, and returned home to Jackson, Mississippi.

In my husband's VA Rating Decision dated November 7, 2016 service connected death was granted. The VA expert physician wrote "She found the more likely etiology for this cancer was the veteran's extensive smoking history. She did not feel his service connected mental health condition with alcohol abuse was linked to this cancer. This physician has the expertise to offer such and her opinion is provided probative value." (Exhibit A)--REASONS FOR DECISIONS-1.Entitlement to accrued benefits Page 4, paragraph 1. Also in my husband's VA Rating Decision dated November 7, 2016, the VA expert physician stated "You provided additional contentions and medical evidence. Upon your additional contentions, we requested an additional medical opinion. A medical opinion dated November 2, 2016 found it at least as likely as not that the veteran's service connected mental health disorder with alcohol abuse aggravated the veteran's head and neck cancer. He provided rationale for this by citing several studies and stating the observed association between increasing alcohol consumption and increased head and neck cancer in men and women is consistent with many medical research studies. This physician's opinion is also deemed credible and probative." (Exhibit A)-REASONS FOR DECISIONS 1.Entitlement to accrued benefits. Page 4 paragraph 2. My husband's VA Rating Decision dated November 7, 2016 further stated "As evidence is in relative equipoise, all benefit of doubt is resolved in your favor and service connection for head and neck

cancer is granted. An evaluation of 100 percent is provided from the date we received the veteran's claim, April 9, 2013 through June 10, 2013, the date of the veteran's death. The 100 percent evaluation is provided based on the active treatment of cancer". (Exhibit A)-REASONS FOR DECISIONS-1. Entitlement to accrued benefits. Page 4, paragraph 3). My husband's VA Rating Decision dated November 7, 2016 stated that "The veteran died on June 10, 2013. Prior to his death, he had properly established service connection for anxiety, with alcohol dependence (evaluated as 70 percent disabling), tinnitus (evaluated as 10 percent disabling), and hearing loss (evaluated as 0 percent disabling). Service connection for head and neck cancer has also been established on an accrued basis as it was aggravated beyond its normal progression due to the veteran's alcohol use (which was previously related to the veteran's service connected mental health condition). As the veteran's death certificate reveals this was the primary cause of death, service connection for the cause of death is granted. This is considered a full grant of benefits sought on appeal for service connection for the cause of death. This does not affect the other issues for which you are appealing". (Exhibit A)-REASONS FOR DECISION-2. Service connection for the cause of death Page 5, paragraphs 1, 2, 3.

In sum, the VA agreed with the physician's statement, who is an expert witness for the VA that my husband's head and neck cancer was caused by my husband's extensive smoking history. The VA also, agreed I put forth an argument and provided medical evidence to show my husband's head and neck cancer was caused by his alcohol drinking. And that the VA cited several studies stating association between increase alcohol consumption and increased head and neck cancer. The VA further agreed, that my argument and the medical evidence I provided, along with the VA expert physician's opinion were equal for the cause of my husband's head and

neck cancer. The VA granted my husband 100 percent service connected death based on his VA cancer treatment. Last, the VA stated my husband was already granted 70 percent service connected disability for alcohol dependency before his death June 10, 2013. And that accrued full benefits was granted because the alcohol use made his head and neck cancer progress beyond normal cancer. And that the granted service connected death, does not affect my wrongful death appeal.

Making an economic choice to receive military care by virtue of his Vietnam veteran's benefits my husband Willie Alexander McAllister presented himself at G.V. (Sonny) Montgomery VA Medical Center, Jackson, Mississippi on numerous occasions for alcohol dependency. Written in my husband's medical records, when he was 50 years old was, he telling the VA he had a drinking problem and needed help. Over the years he was given numerous medications, for his PTSD anxiety by the VA, and told by the VA to quit drinking. From December 14, 2004 until May 5, 2013 my husband was given Lorazepam TAB 2 mg. (Exhibit B)-Unit Dose Pharmacy, pages 1798-1808. Defined in the "U.S. National Library of Medicine - The World's Largest Medical Library, Pub Med Health *lorazepam* is used to treat anxiety disorders. It is also used for short-term relief of the symptoms of anxiety or anxiety caused by depression. Lorazepam is a benzodiazepine that works in the brain to relieve symptoms of anxiety. Benzodiazepines are central nervous system (CNS) depressants, which are medicines that slow down the nervous system." (Exhibit C)-Lorazepam (Oral route). My husband continued in and out of rehab at the VA and with their contracted provider Harbor House Chemical Dependency Services-Jackson for PTSD anxiety with alcohol dependency treatment.

In sum, my husband went to the VA for all his healthcare problems because he was a veteran. When he became an alcoholic he turn to the VA for help. My husband did his part and sought medical treatment. He took the medications including Lorazepam the VA prescribed to him to help with his alcohol dependency. My husband's heavy drinking, heavy smoking and illicit drug use worsened, they did not get better.

Medical research studies written in the Journal of Clinical Medicine "*PTSD Symptom Severities, Interpersonal Traumas, and Benzodiazepines Are Associated with Substance-Related Problems in Trauma Patients*", August 10, 2016 reports "We hypothesized that substance-related problems are associated with PTSS severities, interpersonal traumas, and benzodiazepine prescriptions. Previous studies have noted increased rates of alcohol use disorder in those treated with benzodiazepines for PTSD and anxiety. While benzodiazepines are generally considered contraindicated in those with SUD histories, PTSD patients with comorbid SUD are more likely to receive benzodiazepines prescriptions than those without SUD. Unfortunately, SUD is a major risk factor for benzodiazepine prescription misuse, although benzodiazepines can result in drug reinforcement and misuse even in patients without histories of SUD in conditions of continuous benzodiazepine availability. We hypothesize (H3) that patients with a history of benzodiazepine prescriptions are more likely to have substance-related problems, especially with alcohol (which is particularly concerning because it is cross-tolerant with benzodiazepines and is readily available which may increase the chance of supplementing or replacing benzodiazepines with alcohol when tolerance develops and illegal drugs (those with SUD may seek prescriptions with abuse potential), but also benzodiazepine-induced disinhibition may compound

PTSD-related recklessness and increase the risk of drug use." (Exhibit D)-Journal of Clinical Medicine Page 1, Abstract: Background, Page 2 paragraph 2.

In sum, substance abuse is related to PTSS, trauma and benzodiazepines prescriptions. Previous medical studies have shown that "benzodiazepines prescriptions caused an increase in alcohol use with veterans being treated for PTSD and anxiety." Even though there existed previous knowledge you do not use benzodiazepines prescriptions with substance-related problems. Patients with substance-related problems were more likely given benzodiazepines prescriptions than patients without substance-related problems. SUD is a major risk factor with benzodiazepines prescriptions misuse and also with patients who do not have a history of SUD. Patients who take benzodiazepines prescriptions will have a substance-related problems—especially alcohol. This is concerning because alcohol has the same effects as benzodiazepines prescriptions and you can easily get alcohol. This chances a patient in substituting benzodiazepines prescriptions for alcohol and illegal drugs. Benzodiazepine prescriptions make PTSD veterans act worse and use drugs more than they would normally if they were not on benzodiazepine prescriptions.

In a VA publication VA Health Care PTSD: National Center for PTSD Professional *Use of Benzodiazepines for PTSD in Veterans Affairs PTSD:* National Center for PTSD *Evidence on the Use of Benzodiazepines for PTSD* The VA/DoD 2010 Practice Guideline for the Management for PTSD strongly recommends against the routine use of benzodiazepines in Veterans with PTSD. (1) The recommendation was based on unproven efficacy of benzodiazepines and well-known risks of abuse and dependence. There have been two placebo-controlled randomized clinical trials of benzodiazepines for treating PTSD. Both had

negative findings. Alprazolam (Xanax) had no benefit in alleviating PTSD symptoms (2), and clonazepam (Klonopin) had no benefit for the treatment of PTSD-related sleep dysfunction (3). Findings from research using VA administrative data of Veterans in care for co-occurring PTSD and substance use disorder (SUD) also do not support the use of benzodiazepines in PTSD (4). A recent meta-analysis of 18 studies with over 5,200 participants found benzodiazepines to be ineffective for PTSD treatment and concluded the risks associated with their use outweigh potential short-term benefits (5). Despite the lack of efficacy of benzodiazepines for the treatment of core PTSD symptoms (intrusion, avoidance, alterations in cognitions and mood, and hyperarousal) or sleep dysfunction. VA clinicians continue to prescribe benzodiazepines for PTSD patients (30% in 2012-6)—presumably for symptomatic control of insomnia and anxiety due to the rapid short-term relief offered by benzodiazepines). However, it is now recognized that any benefit of benzodiazepines for these associated symptoms rapidly dissipates, leaving a veteran to continue taking the medication to avoid withdrawal and rebound effects (7). The common practice of allowing veterans to take benzodiazepines on an as-needed basis can lead to fluctuating blood levels that can worsen anxiety and cognitive impairment (8)." (Exhibit E)-Evidence on the Use of Benzodiazepines for PTSD, Page 1.

In sum, in 2010 the VA Health Care PTSD: National Center for PTSD Professional *Use of Benzodiazepines for PTSD in Veterans Affairs PTSD:* National Center for PTSD was published. The VA/DoD 2010 Practice Guideline for the Management for PTSD strongly recommended against the routine use of benzodiazepines in Veterans with PTSD because 'it did not work'. And the risks outweighed the benefits. Benzodiazepines was used on PTSD patients in two clinical trials, and had negative findings. Despite benzodiazepines not working VA

clinicians continued to prescribe it for insomnia and anxiety. It worked short term but the veteran had to continue taking it to prevent withdrawals. Prescribing benzodiazepines to veterans on an as needed basis can cause health problems like fluctuating blood levels that can worsen anxiety and cognitive impairment.

In a research study, Health Services Research & Development, *Development of Strategies to Care for PTSD: Decreasing Benzodiazepine Treatment* stated The Department of Veterans Affairs (VA) and Department of Defense (DoD) issued a revised PTSD Clinical Practice Guideline (CPG) in 2010 that established evidence based recommendations that foster well-being among Veterans with PTSD. Beyond recommendations the CPG cautioned against long term use of benzodiazepines to manage core PTSD symptoms due to an absence of efficacy data and growing literature documenting potential harms. Despite the guidance, VA providers routinely continue to prescribe benzodiazepines to Veterans with PTSD. In fiscal year 2009, our research group determined that over 30% of Veterans with PTSD seen in VA facilities received a benzodiazepine prescription. It is clear a gap exists between evidence based practice for Veterans with PTSD and the clinical care they receive. What was unique about the research was that we were developing strategies to decrease the use of a clinical practice rather than trying to increase one. We found that the number of veterans receiving care for PTSD in the VA increased from 170,685 in 1999 to 498,081 in 2009." (Exhibit F)-Health Services Research Development, *Development of strategies to Care for PTSD: Decreasing Benzodiazepine Treatment*, Background/Rationale Findings/Results, Page 1.

In sum, in 2010 the VA/DoD had evidence and "cautioned" against long term use benzodiazepines to manage PTSD because of data about the effects and information about the

potential harms. With the VA/DoD having this information their providers continued to prescribe benzodiazepines prescriptions to PTSD veterans. Though medical research studies suggested decreasing benzodiazepines prescriptions to veterans with PTSD, both VA/DoD providers were increasing benzodiazepine prescriptions to veterans with PTSD. By 2009 30% of PTSD veterans at the VA were prescribed benzodiazepines prescriptions. What the VA/DoD providers were told to do with PTSD veterans and what they were actually doing were two different things. The research was developing strategies for the VA/DoD to decrease benzodiazepines prescriptions and not increase benzodiazepines prescriptions. From 1999 to 2009 veterans receiving care for PTSD at the VA increased from 170,685 to 498,081.

In conclusion, my husband's VA Rating Decision dated November 7, 2016, agreed my husband's head and neck cancer was due to my husband's extensive smoking history. And the VA further agreed the argument and medical evidence I provided proved my husband's head and neck cancer was caused by his alcohol use. Thus the VA granting my husband 100 percent service connected death was based on his cancer. The VA had already granted my husband 70 percent service connected disability for alcohol dependency before his death June 10, 2013. And that my husband was newly granted accrued full benefits because his alcohol use made his head and neck cancer progress beyond normal cancer. My husband's VA Rating Decision further stated my husband's wrongful death appeal was separate from my husband's service connected death appeal. My husband was a Vietnam veteran, he went to the VA only for his healthcare. He turned to the VA for help for his alcohol dependency. He took the medications including Lorazepam the VA prescribed to him. My husband continued in and out of rehab at the VA and with their contracted provider Harbor House Chemical Dependency Services-Jackson for PTSD

anxiety with alcohol dependency treatment. My husband's heavy alcohol drinking, heavy cigarette smoking and illicit drugs use worsened, they did not get better. His alcohol dependency and smoking use eventually caused him head and neck cancer and led to his death. Substance-related problems is related to PTSS, trauma and benzodiazepines prescriptions. Previous medical studies had shown that "benzodiazepines prescriptions caused an increase in alcohol use with veterans being treated for PTSD and anxiety." There was evidence in previous medical studies that showed PTSD anxiety veterans treated with benzodiazepines prescriptions alcohol use increased. There was also readily available knowledge that you do not prescribe benzodiazepines for patients with substance-related problems however, this practice continued. It was known that this was a "major" risk factor in patients with and without SUD. It was previously known that benzodiazepines prescriptions caused patients to develop substance-related problems—especially alcohol, and alcohol would be easily accessible to the patients. And that patients would be more likely to use alcohol and illegal drugs. Also noted, veterans with PTSD taking benzodiazepine prescriptions are going to act out worse more than normal if they had not been on the prescription. In a VA publication VA Health Care PTSD: National Center for PTSD Professional Use of Benzodiazepines for PTSD in Veterans Affairs PTSD: National Center for PTSD. The VA/DoD strongly recommended against using benzodiazepines in veterans with PTSD. This was based on effectiveness of benzodiazepines, and known risks of abuse and dependency. The two trials they had with benzodiazepines for treating PTSD had negative effects and no benefit. It did not help veterans with PTSD and substance use disorder (SUD). The benzodiazepines did not work and their risks outweighed their benefits. Despite the benzodiazepines for treating PTSD did not work, veterans with PTSD

were still being prescribed benzodiazepines, to control symptoms of insomnia and anxiety. However, it was short lived, leaving the veteran to continue to take benzodiazepines to avoid withdrawals. Continuing veterans on benzodiazepines on an as needed basis could cause health problems like fluctuating blood levels that can worsen anxiety and cognitive impairment. In 2010, the VA/DoD published a revised written publication. Both VA/DoD cautioned long term use of benzodiazepines to manage PTSD through literature about the potential harm. Despite the publication the VA providers continued to prescribe benzodiazepines to veterans with PTSD. Though medical research studies suggested decreasing benzodiazepines prescriptions to veterans with PTSD, both VA/DoD providers were increasing benzodiazepine prescriptions to veterans with PTSD. From 1999 to 2009 veterans receiving care for PTSD at the VA increased from 170,685 to 498,081. In 2010 the VA/DoD had evidence and "cautioned" against long term use benzodiazepines to manage PTSD because of known data about the effects and information about the potential harms. With the VA/DoD having this information their providers continued to prescribe benzodiazepines prescriptions to PTSD veterans. Though medical research studies suggested decreasing benzodiazepines prescriptions to veterans with PTSD, both VA/DoD providers were increasing benzodiazepine prescriptions to veterans with PTSD. By 2009 30% of PTSD veterans at the VA were prescribed benzodiazepines prescriptions. What the VA/DoD providers were told to do with PTSD veterans and what they were actually doing were two different things. The research was developing strategies for the VA/DoD to decrease benzodiazepines prescriptions and not increase benzodiazepines prescriptions. From 1999 to 2009 veterans receiving care for PTSD at the VA increased from 170,685 to 498,081.

RELIEF

I can now tell when the cancer started spreading to my husband's head because he had a bad nosebleed one morning. Then he started feeling dizzy when he stood. We went to the VA ear, nose, and throat doctor and told them about this. The VA doctor told us just stand up slowly. Watching my husband debilitate right before my eyes was just like plucking a flower from the ground and watching it slowly wilt away. My husband's debilitation began with him losing his equilibrium. He would have to walk holding onto the walls, doors anything he could touch to keep himself from falling. It seemed unbelievable at first I thought maybe he was joking. He no longer could take showers because he was afraid he would slip in the shower. He asked me one day 'Baby do you think this is going to stop". My husband went from walking, to staggering, to having to hold onto the walls, me holding onto him, being confined to a wheelchair and then confined to the bed. When my husband became wheelchair bound, my husband began having bowel and urine incontinence I assured him it was okay, this was what being sick was all about. I did not want him to feel bad or less than a man because of incontinence, he had always been independent. My son and I kept my husband cleaned and loved. Our marriage vows were in sickness and in health, until death do us part. I was going to be there for my husband and take good care of him. My husband had six children who did not want to have anything to do with him still, even during his illness. I was his fourth wife and my husband had only my son and me to take care of him. My husband knew how much my son meant to him when he got sick because my son would stay with him when I ran errands. My son said my husband pissed on his shoe while trying to use the toilet. My husband knew how much

my son loved him. I am seeking $10,000,000.00 in Non-Economic damages for the loss of my husband, for my husband's and for my pain and suffering.

My husband was such a nervous wreck about his cancer diagnosis that he could not stop drinking alcohol, smoking cigarettes and marijuana. Because it was winter, my husband caught a cold and gave everyone in the house we were living with a cold. He would not come out of the weather to smoke cigarettes, marijuana and drink alcohol. My husband was so frightened he told me he wanted me to die with him he did not want to die alone. We immediately became overwhelmed with fear without even realizing it. We began arguing with one another until finally I said I am scared and then he said I am too. That was when we both settled down. In my husband's medical records the doctors would cite the spouse was tearful during the visit. I told my husband his illness had shown me how much I loved him. He told me "Me too". We would just lie in the bed together and watch movies with his hands held close to my heart. When people called to check on us I would tell them we were waiting on God. I cried, screamed, sobbed and begged God to heal my husband but God did not. The VA told my husband he had to stop smoking and drinking when he started chemotherapy or the chemotherapy would not work. When my husband started chemotherapy and radiation therapy he stopped smoking cigarettes, marijuana and drinking alcohol cold turkey. The VA did not detox them, the VA later apologized because he could have died from the withdrawals. I am seeking $10,000,000.00 in Punitive Damages because the VA/DoD continued to prescribe benzodiazepines for years to veterans with PTSD anxiety when they knew of the potential harm.

Respectfully submitted, this 8, September, 2017.

Sharon McAllister

NAME, ADDRESS AND PHONE NUMBER OF PLAINTIFF:

Sharon Arneader McAllister

PO BOX 11462

Jackson, Mississippi 39283

601-238-2400

References

1. The United States Department of Veterans Affairs Rating Decision for service connection death is granted November 6, 2016. (Exhibit A)-REASONS FOR DECISIONS Page 4, paragraph 1. Entitlement to accrued benefits. Paragraphs 2, 3, and 4. 2. Service connection for the cause of death. Page 5, 2. Service connection for the cause of death. Paragraphs 1, 2, 3.
2. Unit Dose Pharmacy (Exhibit B)-Unit Dose Pharmacy, pages 1798-1808.
3. U.S. National Library of Medicine - The World's Largest Medical Library, Pub Med Health (Exhibit C)-Lorazepam (Oral route).
4. Journal of Clinical Medicine titled *"PTSD Symptom Severities, Interpersonal Traumas, and Benzodiazepines Are Associated with Substance-Related Problems in Trauma Patients"*, August 10, 2016. (Exhibit D)-Page 1, Abstract: Background, Page 2 paragraph 2.
5. VA Health Care PTSD: National Center for PTSD Professional *Use of Benzodiazepines for PTSD in Veterans Affairs PTSD: National Center for PTSD* (Exhibit E)-Evidence on the Use of Benzodiazepines for PTSD, Page 1.
6. Health Services Research & Development, *Development of Strategies to Care for PTSD: Decreasing Benzodiazepine Treatment*, June 2011 - September 2012, (Exhibit F)-Page 1 Background/Rationale, Finding/Results.